




To the Honorable Council
City of Norfolk, Virginia

February 11, 2014

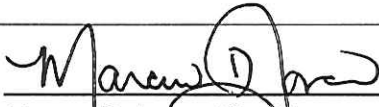
From: Kristen M. Lentz, P.E., Director of Utilities

Subject: Ordinance – Purchase and Sale Agreement – 1224 Cary Avenue, owner Anita E. Urquhart

Reviewed: 
Ronald H. Williams, Jr., Assistant City Manager

Ward/Superward: 3/7

Approved:


Marcus D. Jones, City Manager

Item Number:

R-3

I. **Recommendation:** Adopt Ordinance

II. **Applicant:** City of Norfolk

III. **Description**

This agenda item is to approve and authorize a Purchase and Sale Agreement between the City and Anita E. Urquhart for the purchase a vacant lot known as 1224 Cary Avenue in the Bruce's Park section of the City.

IV. **Analysis**

The Department of Utilities is planning for a new sanitary sewer pump station in Bruce's Park as part of planned capital improvements to provide reliable sanitary sewer service in this part of the City. The vacant lot will be combined with adjacent vacant City owned parcels to assemble a site large enough to construct the new sanitary sewer pump station.

V. **Financial Impact**

The negotiated purchase price agreed to between the parties is \$10,000. The current land assessment is \$7,200. The agreed price is slightly above the assessment for the land and considered a reasonable purchase price for the property. The Ordinance authorizes an expenditure of up to \$15,000 which includes other additional costs of the transaction.

VI. **Environmental**

An Environmental Phase 1 study will be completed as part of the City's due diligence in the purchase of this property.

VII. Community Outreach/Notification

Notice of this item was provided through the City of Norfolk's City Council agenda notification process.

VIII. Board/Commission Action

N/A

IX. Coordination/Outreach

This letter has been coordinated with the City Attorney's Office, Department of Utilities, and the Division of Real Estate.

Supporting Material from the City Attorney's Office:

- Ordinance
- Purchase and Sale Agreement

mr12/4/13
Form and Correctness Approval: *RAP*By *[Signature]*
Office of the City Attorney

NORFOLK, VIRGINIA

Contents Approved:

By *[Signature]*
DEPT.

Pursuant to Section 72 of the City Charter, I hereby certify that the money required for this item is in the city treasury to the credit of the fund form which it is drawn and not appropriated for any other purpose.

\$ *15,000**5200 34 3082*

Account

*FY14 5580**[Signature]*
Director of Finance*1/10/14*
Date*BCM***ORDINANCE No.**

AN ORDINANCE AUTHORIZING THE PURCHASE FROM ANITA E. URQUHART, OF CERTAIN PROPERTY LOCATED IN THE CITY OF NORFOLK, KNOWN, NUMBERED AND DESIGNATED AS 1224 CARY AVENUE, FOR THE SUM OF \$10,000.00 IN ACCORDANCE WITH THE TERMS AND CONDITIONS OF THE ATTACHED PURCHASE AND SALE AGREEMENT; AND AUTHORIZING THE EXPENDITURE OF A SUM OF UP TO \$15,000.00 FROM FUNDS HERETOFORE APPROPRIATED TO PAY THE PURCHASE PRICE AND THE OTHER TRANSACTION COSTS.

BE IT ORDAINED by the Council of the City of Norfolk:

Section 1:- That the purchase from Anita E. Urquhart of that certain real property located in the City of Norfolk, known, numbered and designated as 1224 Cary Avenue, which property is more particularly described in Exhibit A and shown on Exhibit B, both of which are attached to and made a part of this ordinance, for the sum of \$10,000.00, in accordance with the terms and conditions of the Purchase and Sale Agreement, a copy of which is attached hereto as Exhibit C, is hereby authorized and approved.

Section 2:- That a sum of up to \$15,000.00 is hereby authorized to be expended from funds heretofore appropriated to pay the purchase price for the property in the amount of \$10,000.00, and to pay the other transaction costs.

Section 3:- That upon receipt of a Deed, in form satisfactory to the City Attorney, conveying the aforementioned property to the City of Norfolk, the City Manager is authorized to accept the deed on behalf of the City, to pay the purchase price for the property in the amount of \$10,000.00, to pay the other transaction costs, and to do all other things necessary and proper to effect the conveyance of the property to the City.

Section 4:- That the City Manager is further authorized to correct, amend or revise the Purchase and Sale Agreement, as he may deem advisable to carry out the intent of the Council.

Section 5:- That this ordinance shall be in effect from and after its adoption.



EXHIBIT "A"

Real Estate Account Number 0945-7900

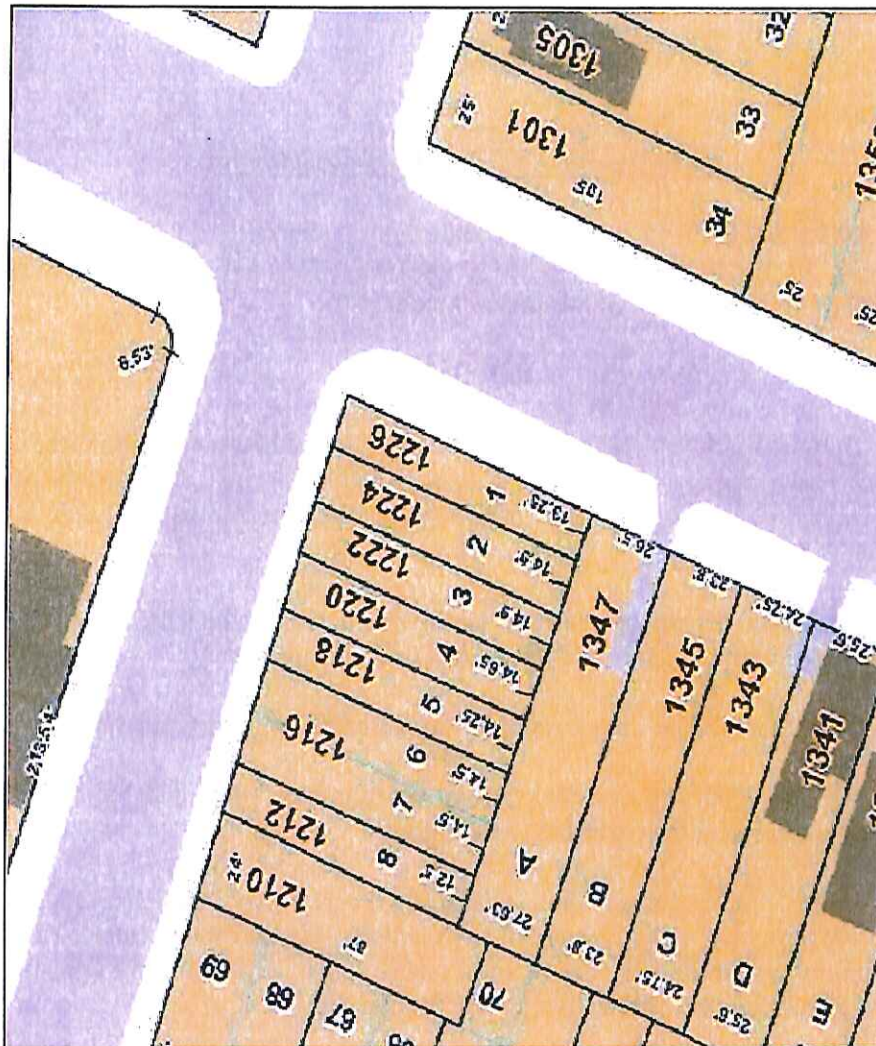
ALL THAT CERTAIN LOT, piece or parcel of land, with the buildings and improvements thereon, now numbered 1224 Cary Avenue, situate in the City of Norfolk, Virginia, and known, numbered and designated as Lot Two (2) as shown on the plat entitled "Plat Showing Property of Henry Hunsberger and Wm. W. Old, Jr." made by C. F. Petrie, C. E., May 11, 1920, which said plat is duly recorded in the Clerk's Office of the Circuit Court (formerly Norfolk County), Virginia, in Map Book 17, at page 56; the said lot fronting 14.9 feet on Cary Street and extending back between parallel lines 81 feet, more or less, as shown on said plat, to which reference is hereby made for a more particular description.

IT BEING the same property conveyed to Anita E. Urquhart by deed from J. C. Council, Jr. and Alice D. Council dated September 1989 and duly recorded October 11, 1989 in the aforesaid Clerk's Office in Deed Book 2215 page 10.

Print Date 12/2/2013
 Property Address 1224 Cary Av
 Account Number 09457900
 GPIN 1437692766

Property Detail

Parent Account	Urquhart, Anita E
Owner Name	200200
Neighborhood	Vacant Land
Property Use	0269
Plate	500 N Rodney St Apt 8
Mailing Address	Wilmington DE 19805-0000
Parcel Approximate Area (Sq Ft)	NA
Parcel Approximate Acreage	NA
House Plate Number	135
Legal Description	2 14.9 Ft





PURCHASE AND SALE AGREEMENT

THIS AGREEMENT ("Agreement") made this ____ day of _____, 2013, by and between ANITA E. URQUHART ("Seller"), and the CITY OF NORFOLK, a municipal corporation of the Commonwealth of Virginia ("Purchaser").

RECITALS

A. Subject to all Permitted Encumbrances (as defined below), Seller is the owner in fee simple of certain real property, located in the City of Norfolk, Virginia, commonly known as 1224 Cary Avenue, and more particularly described in Exhibit A, attached to and made a part of this Agreement (the, "Land").

B. Purchaser desires to purchase and Seller desires to sell the Property (as defined below) in accordance with the terms and conditions of this Agreement.

C. These recitals are incorporated by this reference into this Agreement.

NOW, THEREFORE, in consideration of the purchase price and the mutual promises contained in this Agreement, the parties agree as follows:

1. SALE. Seller agrees to sell and Purchaser agrees to purchase the Land, together with (i) all of Seller's rights, title and interest in all easements, rights, and appurtenances thereto, (ii) all buildings and improvements now located thereon, and (iii) all of Seller's rights, title, and interest in all public ways adjoining same (collectively the, "Property").

2. PURCHASE PRICE. The purchase price (the, "Purchase Price") for the Property is **TEN THOUSAND AND NO/100 DOLLARS** (\$10,000.00), and the Purchase Price will be paid in the form of a wire transfer of immediately available funds at the closing of this transaction ("Closing").

3. DEPOSIT. Seller does not require and Purchaser will not make a deposit to the Purchase Price.

4. CLOSING. The exchange of documents and funds for the acquisition of the Property ("Closing") shall occur at the offices of the Norfolk City Attorney, in Norfolk Virginia 23510, or such other location as the parties may agree, within 45 days of the effective date of the ordinance authorizing the purchase of the Property by the Purchaser (the, "Effective Date"), unless extended by mutual agreement of the parties, it is hereby agreed that time is of the essence of this Agreement.

5. CONVEYANCE.

a. Seller agrees to convey the Property to Purchaser by General Warranty Deed, with modern English covenants of title, free and clear of all encumbrances, tenancies, and liens (for taxes or otherwise), except for Permitted Encumbrances and except as may otherwise be provided in this Agreement.

b. Within twenty (20) days after the Effective Date, Purchaser may provide Seller with a written list of any objections to title to the Property (the, "Objections"). If Seller does not elect to cure the Objections by written notice provided to Purchaser within ten (10) days after receipt of the Objections, then Purchaser shall have the option to terminate this Agreement by providing written notice of termination to Seller on or before the expiration of the Feasibility Period. All matters of record, including those disclosed by the title commitment and the Survey other than any matters that are the subject of an Objection that Seller has elected to cure are collectively referred to herein as the "Permitted Encumbrances."

c. Purchaser shall be responsible for securing a survey of the Property. Purchaser shall also pay for all title insurance costs and premiums.

d. Possession of the Property will be given to Purchaser at Closing, except that Purchaser will have access to the Property for the purposes specified in Paragraphs 7 and 10.

e. Purchaser agrees to pay the expenses of preparing the deed and any "grantor's tax". Purchaser will pay all other fees charged in connection with recordation of the deed, including without limitation any "grantee's tax."

f. Seller and Purchaser agree that the Stewart Title Guaranty Company (the, "Title Company") shall act as the settlement agent at Purchaser's expense. The Title Company shall prepare the settlement statement, update and record the deed, collect and disburse settlement funds in accordance with this Agreement and the settlement statement, and file any required state and federal tax forms or other certifications in accordance with state and federal law and IRS reporting requirements as set forth in Paragraph 29 of this Agreement.

6. FIXTURES AND REMOVABLE PERSONAL PROPERTY. Any and all items belonging to Seller and permanently affixed to the Property, including partitions and fences, are included in this sale at the Purchase Price; provided that Seller shall have ninety (90) days from the execution of this Agreement (the, "Removal Period") to remove items of personal property from the Property.

7. RIGHT OF ENTRY. Purchaser and Purchaser's authorized representatives may at any reasonable time and after giving reasonable notice to Seller, enter upon the Property for the purpose of making inspections (including the performance of a Phase I Environmental Site Assessment as

contemplated by the ASTM Standard E 1527-05 and 40 CFR Part 312), appraisals, surveys, including the cutting of survey lines and putting up markers and driving stubs and stakes, site analysis, engineering studies, core sampling for engineering reports, and locating existing rights of way, easements, and utilities; provided that: (A) Any and all intrusive testing, sampling or similar work (including without limitation sampling of any building material or any environmental media (such as air, water, groundwater or soils) or the analysis of any core sample for any chemicals or contaminants) shall require 3 days prior written notice to Seller, and Purchaser shall permit Seller, upon Seller's request and at Seller's expense, to take split samples. Purchaser shall furnish to Seller a detailed description of the contemplated testing or sampling work, including a site map indicating the location of the proposed testing or sampling. Such testing and/or sampling shall be conducted in such a way as to minimize interference with the business operations of Seller at the Property. Purchaser shall furnish to Seller copies of all subsequent testing and sampling reports and shall keep such reports confidential unless and to the extent that disclosure is required by applicable law or regulation; (B) Purchaser shall provide Seller with three (3) days' advance notice of the time and date of any proposed entry of the Property by Purchaser; and (C) Purchaser will exercise all rights of entry provided by this Section 7 in such a way so as to not: (i) cause damage to the Property, and/or (ii) materially interfere with Seller's operations at the Property. To the extent permitted by law and without waiving any right to sovereign immunity, Purchaser agrees to be responsible for all claims of liability for any personal injury or property damage or otherwise to any person or property caused by the negligence of Purchaser or its agents before or after Closing.

8. CONDITIONS. The Purchaser's obligation to close the transaction contemplated by this Agreement is expressly conditioned upon the satisfaction or waiver of each of the following conditions.

a. On or before the Closing, Title Company agrees to issue a title policy to Purchaser subject only to (i) promulgated or standard exceptions, and (ii) Permitted Encumbrances;

b. On or before the expiration of the Feasibility Period, Purchaser receives a Phase I Environmental Assessment Report (Phase I Report) conducted and prepared by an environmental engineering and inspection company selected by Purchaser at Purchaser's expense, such report to be satisfactory to the Purchaser, and such other testing and reports as may be reasonably required by Purchaser or recommended in the Phase I Report, any such additional testing and reports to be satisfactory to the Purchaser, in its sole discretion, and to be performed at the Purchaser's expense;

c. Seller is not in default (beyond all applicable periods of notice and cure) at the time of Closing.

If the conditions set forth in Paragraph 8(b) above are not satisfied within 45 days after the Effective Date (such 45 days being the "Feasibility Period"), the Purchaser (as its sole and exclusive remedy therefor) may, by providing written notice to Seller on or before the expiration of the Feasibility Period, unilaterally terminate this Agreement. In the event additional testing, such as a Phase II environmental assessment, is required as a result of the Phase I report, the Feasibility Period shall be extended 45 additional days to permit the completion of such testing.

If any one of the conditions set forth in Paragraph 8(a) or 8(c) above is not satisfied by the date of Closing, the Purchaser (as its sole and exclusive remedy therefor) may, by providing written notice to Seller on or before the actual Closing pursuant to this Agreement, unilaterally terminate this Agreement.

9. PROPERTY INFORMATION. Within five (5) business days of the Effective Date, Seller shall furnish Purchaser with certain reports and investigations, including, but not limited to, Environmental Reports, Environmental Assessments, and Environmental Investigations relating to the Premises ("Property Information"). Purchaser acknowledges and agrees that (i) the Property Information may have been prepared by third parties and may not be the work product of Seller; (ii) Seller has made no independent investigation or verification of, or has any knowledge of, the accuracy or completeness of, the Property Information; (iii) the Property Information delivered or made available to Purchaser is furnished at the request, and for the convenience of, Purchaser; (iv) PURCHASER is relying solely on its own investigations, examinations and inspections of the Premises and is not relying in any way on the Property Information furnished by Seller; (v) Seller expressly disclaims any representations or warranties with respect to the accuracy or completeness of the Property Information and Purchaser releases Seller from any and all liability with respect thereto; and (vi) upon the termination of this Agreement, Purchaser shall return all such Property Information to Seller, and shall not disclose it to any third party other than Purchaser's attorneys, accountants, and consultants that need to know such information in connection with Purchaser's investigation of the Property, unless any such disclosure is legally required.

10. ENVIRONMENTAL AND RELATED MATTERS.

a. Definitions. As used in this Agreement, the following terms will have the following meanings:

(i) **Contamination** means any release (as that term is used or defined by CERCLA) of a (i) Hazardous Substance; (ii) Petroleum Substance or Product; (iii) polychlorinated biphenyl (PCB); (iv) asbestos or asbestos containing material; or (v) radon gas in quantities requiring remediation under applicable law;

(ii) **Hazardous Substance** means those substances as defined by the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 U.S.C. §9601(14), and includes any material that is toxic, flammable, explosive, or corrosive as these terms are defined by or used in CERCLA. Petroleum Substances or Products as defined below are excluded.

(iii) **Petroleum Substance or Product** means any material containing refined or crude oil, or any fraction thereof, and includes natural gas, natural gas liquids, liquefied natural gas, or synthetic gas usable for fuel or mixtures of natural gas and such synthetic gas. Hazardous Substances as defined above are excluded.

b. Removal of Storage Tanks. Seller will, at Seller's expense, remove all Underground Storage Tanks (USTs) and Aboveground Storage Tanks (AGSTs) and related piping it knows to be present on the Property prior to Closing and backfill with soil before Closing, unless the USTs or AGSTs are to be purchased by Purchaser. Removal of the USTs and AGSTs will be completed in accordance with applicable regulations of the Department of Environmental Quality (DEQ). It is expressly understood and agreed that Seller is not selling and Purchaser is not purchasing any USTs or AGSTs that are found to exist on the Property, other than as specifically set forth herein, and that the responsibility of ownership, maintenance, reporting, and renewal of these storage tanks will remain with the owner of the tanks.

c. Phase I Environmental Assessment.

(i) If Purchaser has performed a Phase I Report or with Seller's consent has performed any other environmental testing of the Property, then upon Seller's written request, a copy of the Phase I Report and such other testing, if any, will be made available to Seller.

11. REPRESENTATIONS AND WARRANTIES BY SELLER. Seller represents and warrants as of the date of this Agreement that:

a. Seller has the right, title, and authority to enter into this Agreement and to perform its obligations hereunder;

b. The entry and performance of this Agreement by Seller will not to the actual knowledge of the Seller's signatory hereto breach any other agreement binding upon Seller or the Property, or create a violation of any applicable law, rule, or regulation;

c. There are no active actions or proceedings, or (to the knowledge of Seller's signatory hereto) threatened against the Seller to condemn all or any part of the Property;

d. To the best of Seller's knowledge, Seller has received no written notices to the effect that the Property is not in compliance with an applicable federal, state, and local law, rule, and regulation; and

e. To the best of Seller's knowledge, as of the Effective Date and as of the date of Closing, there are no leases of the Property in effect.

The representations and warranties set forth in this Section 11 shall merge with the deed provided by the Seller at Closing.

12. RELEASE OF CLAIMS; AS-IS-WHERE-IS AND WITH ALL FAULTS CONDITION. SUBJECT TO THE REPRESENTATIONS AND WARRANTIES SET FORTH IN PARAGRAPH 11 (TO THE EXTENT OF THE SURVIVAL OF SUCH REPRESENTATIONS AND WARRANTIES PURSUANT TO SECTION 11) AND THE WARRANTY OF TITLE SET FORTH IN THE DEED PROVIDED AT CLOSING (COLLECTIVELY, THE

"REPRESENTATIONS & WARRANTIES") AND TO THE EXTENT PURCHASER PROCEEDS TO CLOSING, PURCHASER HEREBY AGREES TO PURCHASE THE PROPERTY IN ITS "AS-IS-WHERE-IS AND WITH ALL FAULTS" CONDITION AND ACKNOWLEDGES THAT, EXCEPT FOR THE REPRESENTATIONS & WARRANTIES, NEITHER SELLER NOR ITS EMPLOYEES, REPRESENTATIVES, AGENTS, COUNSEL, BROKER, SALES AGENT, NOR ANY PARTNER, OFFICER, DIRECTOR, EMPLOYEE, TRUSTEE, SHAREHOLDER, PRINCIPAL, PARENT, SUBSIDIARY, AFFILIATE, AGENT OR ATTORNEY OF ANY OF THE ABOVE HAS MADE ANY REPRESENTATIONS OR WARRANTIES TO PURCHASER REGARDING THE PROPERTY OR THE OPERATION THEREOF, AND PURCHASER SHALL ASSUME THE RISK THAT ADVERSE PHYSICAL, ENVIRONMENTAL, ECONOMIC OR LEGAL CONDITIONS MAY NOT HAVE BEEN REVEALED BY PURCHASER'S INVESTIGATIONS. SELLER SHALL NOT HAVE ANY LIABILITY TO PURCHASER OF ANY KIND OR NATURE FOR ANY DEFECTS IN THE PROPERTY DISCOVERED AFTER CLOSING, WHETHER THOSE DEFECTS WERE LATENT OR PATENT.

FURTHER, WITH RESPECT TO THE PHYSICAL AND ENVIRONMENTAL CONDITION OF THE PROPERTY, PURCHASER HEREBY EXPRESSLY ACKNOWLEDGES THAT IT HAS INSPECTED AND EXAMINED OR WILL INSPECT AND EXAMINE THE PROPERTY TO THE EXTENT DEEMED NECESSARY BY PURCHASER IN ORDER TO ENABLE PURCHASER TO EVALUATE THE PURCHASE OF THE PROPERTY. PURCHASER ACKNOWLEDGES THAT IT IS ENTERING INTO THIS AGREEMENT ON THE BASIS OF PURCHASER'S OWN INVESTIGATION OF THE PHYSICAL AND ENVIRONMENTAL CONDITIONS OF THE PROPERTY, INCLUDING SUBSURFACE CONDITIONS, AND PURCHASER ASSUMES THE RISK THAT ADVERSE PHYSICAL AND ENVIRONMENTAL CONDITIONS MAY NOT HAVE BEEN REVEALED BY ITS OWN INVESTIGATIONS. PURCHASER REPRESENTS THAT IT IS RELYING SOLELY ON ITS OWN EXPERTISE AND THAT OF PURCHASER'S CONSULTANTS AND THAT PURCHASER HAS CONDUCTED OR WILL CONDUCT SUCH INSPECTIONS AND INVESTIGATIONS OF THE PROPERTY, INCLUDING, BUT NOT LIMITED TO, THE PHYSICAL AND ENVIRONMENTAL CONDITIONS THEREOF AND TO THE EXTENT PURCHASER HAS BEEN UNABLE TO SATISFY ITSELF AS TO THE PHYSICAL OR ENVIRONMENTAL CONDITIONS OF THE PROPERTY, PURCHASER ACKNOWLEDGES AND AGREES THAT ITS SOLE REMEDY IS TO TERMINATE THIS AGREEMENT OR FAIL TO CLOSE IN ACCORDANCE WITH THE PROVISIONS OF THIS AGREEMENT [AND BE REIMBURSED ANY DEPOSIT PREVIOUSLY PAID.] PURCHASER FURTHER ACKNOWLEDGES THAT (I) HAZARDOUS MATERIALS, HAZARDOUS SUBSTANCES, HAZARDOUS WASTE, SOLID WASTE, INDUSTRIAL SOLID WASTE, MUNICIPAL WASTE, CONTAMINATION OR POLLUTANTS, MAY EXIST OR DO EXIST ON, IN, UNDER, ABOVE, OR ABOUT THE PROPERTY, INCLUDING, BUT NOT LIMITED TO, ASBESTOS, METALS, ARSENIC CADMIUM, CHROMIUM, LEAD, MERCURY, POLYCHLORINATED BIPHENYLS, VOLATILE AND SEMI VOLATILE ORGANIC COMPOUNDS, AND TOTAL PETROLEUM HYDROCARBONS; AND (II) AS PART OF THE PROPERTY INFORMATION TO BE PROVIDED TO PURCHASER AS SET FORTH IN PARAGRAPH 9, IT WILL BE PROVIDED COPIES OF ENVIRONMENTAL REPORTS, ENVIRONMENTAL ASSESSMENTS, AND

ENVIRONMENTAL INVESTIGATIONS REGARDING THE PROPERTY OR PORTIONS THEREOF.

THE PROVISIONS OF THIS SECTION 12 SHALL SURVIVE CLOSING (AND SHALL NOT BE MERGED THEREIN) OR THE EARLIER TERMINATION OF THIS AGREEMENT.

TO THE MAXIMUM EXTENT PERMITTED BY LAW, PURCHASER SHALL RELEASE, DISCHARGE, RELINQUISH ANY AND ALL CLAIMS, RIGHTS OF RECOURSE, LIABILITIES, CAUSES OF ACTION, DAMAGES, LOSSES, SUITS, PENALTIES, FINES, COSTS, FEES, REMEDIATION AND RESPONSE COSTS, CLEANUP COSTS, AND OTHER EXPENSES (INCLUDING COURT COSTS, REASONABLE CONSULTANT, EXPERT WITNESS AND ATTORNEYS' FEES AND OTHER DEFENSE EXPENSES), HEREAFTER COLLECTIVELY REFERRED TO AS "*CLAIMS*", THAT IT MAY HAVE AGAINST SELLER, HER, AGENTS AND OTHER REPRESENTATIVES (INDIVIDUALLY AND COLLECTIVELY "SELLER PARTIES") ARISING OUT OF, RESULTING FROM OR IN ANY WAY CONNECTED WITH OR ALLEGED TO HAVE ARISEN OUT OF, RESULT FROM OR BE IN ANY WAY CONNECTED WITH: (I) HAZARDOUS MATERIALS, HAZARDOUS SUBSTANCES, SOLID WASTE, INDUSTRIAL SOLID WASTE, MUNICIPAL WASTE, CONTAMINATION OR POLLUTANTS, THAT EXIST, NOW, IN THE PAST, OR IN THE FUTURE, ON, IN, UNDER, ABOVE, OR ABOUT THE PROPERTY, THIS INCLUDES, BUT IS NOT LIMITED TO, ASBESTOS, METALS, ARSENIC CADMIUM, CHROMIUM, LEAD MERCURY, POLYCHLORINATED BIPHENYLS, VOLATILE AND SEMI VOLATILE ORGANIC COMPOUNDS, AND TOTAL PETROLEUM HYDROCARBONS; (II) THE PHYSICAL OR ENVIRONMENTAL CONDITION OF THE PROPERTY OR ANY FEDERAL, STATE, OR LOCAL LAW OR REGULATION APPLICABLE THERETO; (III) ANY OF THE ENVIRONMENTAL STATUTES OR REGULATIONS EXISTING NOW OR IN THE FUTURE, INCLUDING BUT NOT LIMITED TO, THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION AND LIAIBILITY ACT OF 1980, 42 U.S.C. §9601, *ET SEQ.*, INCLUDING ANY AMENDMENTS NOW OR IN THE FUTURE; THE CLEAN WATER ACT, 33 U.S.C. §1251, *ET SEQ.*, INCLUDING ANY AMENDMENTS NOW OR IN THE FUTURE; THE TOXIC SUBSTANCE CONTROL ACT, 15 U.S.C. §2601, *ET SEQ.*, INCLUDING ANY AMENDMENTS NOW OR IN THE FUTURE; OR (IV) SELLER'S OR SELLER PARTIES' OPERATIONS OR ANY PRIOR OWNER'S OPERATIONS ON THE PROPERTY, WHETHER OR NOT SUCH CLAIMS ARE CAUSED IN WHOLE OR IN PART BY AN ACTIVE OR PASSIVE NEGLIGENT ACT OR OMISSION OR ALLEGED ACTIVE OR PASSIVE NEGLIGENT ACT OR OMISSION OF ANY SELLER PARTY OR ARE BASED UPON THE STRICT LIABILITY OF ANY SELLER PARTY. IT IS THE EXPRESS INTENT OF THE PARTIES THAT PURCHASER RELEASE, DISCHARGE, AND RELINQUISH, ANY CLAIMS AGAINST ANY SELLER PARTY FOR ANY SELLER PARTIES' PARTIAL ACTIVE AND/OR PASSIVE NEGLIGENCE OR ALLEGED PARTIAL ACTIVE AND/OR PASSIVE NEGLIGENCE, PURCHASER'S OWN WILLFUL MISCONDUCT OR THE CONCURRENT, SOLE, WANTON OR GROSS NEGLIGENCE OF ANY SELLER PARTY.

13. NOTICES. All notices to the parties hereto will be delivered by hand, via certified mail return receipt requested, or via facsimile and all be deemed effective upon delivery if by hand and upon confirmation of receipt if by other means, to the following address until the address is changed by notice in writing to the other party:

Purchaser: City of Norfolk
900 City Hall Building
Norfolk, Virginia 23510
Attn: Bernard Pishko, City Attorney

Seller: Anita E. Urquhart
500 N. Rodney Street, #9
Wilmington, DE 19805-3174

With a copy to: Rhonda E. Scott
Department of Development
Division of Real Estate
500 East Main Street, Suite 1500
Norfolk, VA 23510

14. CLOSING. The exchange of documents and funds for the acquisition of the Property ("Closing") shall occur at the offices of the Norfolk City Attorney, in Norfolk Virginia 23510, or such other location as the parties may agree, within 45 days of the effective date of the ordinance authorizing the purchase of the Property by the Purchaser (the, "Effective Date"), unless extended by mutual agreement of the parties, it is hereby agreed that time is of the essence of this Agreement.

15. SURVIVAL. Except as expressly stated in this Agreement, all terms of this Agreement shall terminate upon the termination of this Agreement or upon the Closing.

16. PRORATIONS. Taxes, water fees, sewer fees, and any municipal charges shall be prorated between Purchaser and Seller at and as of the time of Closing. Seller shall not assign to Purchaser any deposits, which Seller has with any of the utility services or companies servicing the Property. Purchaser shall arrange with those services and companies to have accounts opened in Purchaser's name beginning at 12:01 a.m. local time on the Closing Date.

17. RISK OF LOSS. All risk of loss or damage to the property by fire, windstorm, casualty, or other cause is assumed by Seller until Closing. If, prior to Closing, either (a) condemnation or eminent domain proceedings are commenced by any public authority against the Property, or any part thereof; or (b) the Property, or any thereof, is damaged materially by casualty, then, in either such event, Seller shall give Purchaser prompt written notice thereof. After Purchaser's receipt of such notice, Purchaser may elect to: (i) accept the Property and proceed to Closing subject to the proceedings or casualty (as applicable), whereupon any awards or insurance proceeds (as applicable) shall be paid to Purchaser; or (ii) terminate this Agreement, whereupon the

parties shall have no rights, duties, or obligations hereunder, except those specifically stated herein to survive termination of this Agreement. If either the estimated restoration cost of the Property resulting from the subject event is less than \$10,000.00, or if Purchaser does not make the foregoing election within fourteen (14) business days after receipt of Seller's notice then in either of such events Purchaser shall be deemed to have elected option (i) set forth above.

18. BROKERAGE OR AGENT'S FEES. Each party represents and warrants to the other that it is not a party to any oral or written contract, which entitles any person, or entity to any commission in connection with the purchase and sale of the Property.

19. DEFAULT AND REMEDIES.

a. If the sale and purchase contemplated by this Agreement is not consummated because of Seller's or Purchaser's default (which default remains uncured on the date that is three (3) days after receipt of written notice thereof from the other party), the non-defaulting party may as its sole and exclusive remedy elect to either (but without limiting Purchaser's obligations under Paragraph 7):

- (i) Terminate this Agreement;
- (ii) Seek and obtain specific performance of this Agreement; or
- (iii) Waive the subject default and proceed to Close notwithstanding the default.

20. ENTIRE AGREEMENT. This Agreement contains the entire agreement of the parties and will supersede the terms and conditions of all prior written and oral agreements, if any, concerning the matters it covers. The parties acknowledge there are no oral agreements, understandings, representations, or warranties that supplement or explain the terms and conditions contained in this Agreement. This Agreement may not be modified except by an agreement in writing signed by the parties.

21. WAIVER. Failure to insist upon strict compliance with any of the terms, covenants, or conditions hereof will not be deemed a waiver of the term, covenant, or condition, nor will any waiver or relinquishment of any right or power at any one time or more times be deemed a waiver or relinquishment of the right or power at any other time or times.

22. SEVERABILITY. Each provision of this Agreement must be interpreted in a way that is valid under applicable law. In the event that any provision or portion of this Agreement is determined by a court of competent jurisdiction to be void, invalid, or otherwise unenforceable, such provision or portion shall be deemed reformed, insofar as is possible, to cure the defect and give maximum effect to the intent of the parties entering into this Agreement, and in any event the remainder of the Agreement shall continue in full force and effect.

23. CAPTIONS. The headings and sections of this Agreement are inserted for convenience only and are not part of this Agreement and do not limit or modify in any way the terms or provisions of this Agreement and shall not affect the interpretation thereof.

24. GOVERNING LAW. This Agreement, and all disputes arising thereunder, shall be governed, interpreted and construed according to the internal laws of the Commonwealth of Virginia, without giving effect to any principles of conflicts of law.

25. CHOICE OF FORUM/JURISDICTION. The parties hereby consent to the jurisdiction and venue of the courts of the Commonwealth of Virginia, specifically to the courts of the City of Norfolk, Virginia, and to the jurisdiction and venue of the United States District Court for the Eastern District of Virginia, including the U. S. Bankruptcy Court for the Eastern District of Virginia, where applicable, in connection with any action, suit, or proceeding arising out of or relating to this Agreement and further waive and agree not to assert in any action, suit, or proceeding brought in the City of Norfolk, Virginia, or the Eastern District of Virginia that the parties are not personally subject to the jurisdiction of these courts, that the action, suit, or proceeding is brought in an inconvenient forum or that venue is improper.

26. WAIVER OF TRIAL BY JURY. THE PARTIES WAIVE TRIAL BY JURY IN ANY ACTION, PROCEEDING, OR COUNTERCLAIM BROUGHT BY EITHER PARTY AGAINST THE OTHER ON ANY MATTER WHATSOEVER ARISING OUT OF OR IN ANY WAY CONNECTED WITH THIS AGREEMENT OR ANY RELATED AGREEMENTS OR INSTRUMENTS AND THE ENFORCEMENT THEREOF, INCLUDING ANY CLAIM OF INJURY OR DAMAGE TO ANY PARTY OR THE PROPERTY OF ANY PARTY.

27. SUCCESSOR/ASSIGNMENT. This Agreement will be binding upon and the obligations and benefits hereof will accrue to the parties hereto, their heirs, personal representatives, successors, and assigns. This Agreement is fully assignable by Purchaser without Seller's consent to an entity wholly owned or controlled by Purchaser or to a third party only upon written consent of the Seller, which consent will not be unreasonably withheld. This Agreement is not assignable by Seller without Purchaser's consent. If this Agreement is assigned by Purchaser as permitted by this Paragraph 27, the assignee-Purchaser will nevertheless remain fully liable for all obligations and liabilities of the Purchaser under this Agreement.

28. COUNTERPARTS. This Agreement may be executed in identical counterparts, each of which (when all parties have executed and delivered to one another such counterparts) shall be deemed for all purposes to constitute an original, but all of which shall collectively constitute one Agreement. The parties hereto agree that facsimile or email signatures shall have the full force and effect of original signatures.

29. IRS REPORTING REQUIREMENTS. For the purpose of complying with any information reporting requirements or other rules and regulations of the Internal Revenue Service ("IRS") that are or may become applicable as a result of or in connection with the transaction contemplated by this Purchase and Sale Agreement including, but not limited to, any requirements

set forth in proposed Income Tax Regulation Section 1.6045-4 and any final or successor version thereof (collectively the “IRS Reporting Requirements”), Seller and Purchaser hereby designate and appoint the Title Company to act as the “Reporting Person” (as that term is defined in the IRS Reporting Requirements) to be responsible for complying with any IRS Reporting Requirements. The Title Company hereby acknowledges and accepts such designation and appointment and agrees fully to comply with any IRS Reporting Requirements that are or may become applicable as a result of or in connection with the transaction contemplated by this Purchase and Sale Agreement. Without limiting the responsibility and obligations of the Title Company as the Reporting Person, Seller and Purchaser hereby agree to comply with any provisions of the IRS Reporting Requirements that are not identified therein as the responsibility of the Reporting Person, including but not limited to, the requirement that Seller and Purchaser each retain an original counterpart of this Purchase and Sale Agreement for at least four (4) years following the calendar year of the Closing.

30. THIRD-PARTY BENEFICIARIES. Notwithstanding any other provision of this Agreement, the Parties hereby agree that: (i) no individual or entity shall be considered, deemed or otherwise recognized to be a third-party beneficiary of this Agreement; (ii) the provisions of this Agreement are not intended to be for the benefit of any individual or entity other than the Parties; (iii) no individual or entity shall obtain any right to make any claim against the Parties under the provisions of this Agreement; and (iv) no provision of this Agreement shall be construed or interpreted to confer third-party beneficiary status on any individual or entity. For purposes of this section, the phrase “individual or entity” means any individual or entity, including, but not limited to, individuals, assignees, licensors and sub-licensors, regardless of whether such individual or entity is named in this Agreement.

31. TIME OF THE ESSENCE. It is expressly agreed that TIME SHALL BE OF THE ESSENCE of this Agreement with respect to all terms and conditions set forth therein.

(SIGNATURE PAGES TO FOLLOW)

SELLER:

ANITA E. URQUHART

STATE OF _____

CITY/COUNTY OF _____, to-wit:

I, _____, a Notary Public in and for the City/County of _____, in the State of _____, whose term of office expires on _____, do hereby certify that Anita E. Urquhart, whose name is signed to the foregoing Purchase and Sale Agreement, has acknowledged the same before me in my City and State aforesaid.

Given under my hand this ____ day of _____, 2013.

Notary Public

Registration No.

PURCHASER:

CITY OF NORFOLK

By: _____
City Manager

ATTEST:

City Clerk Date

COMMONWEALTH OF VIRGINIA
CITY OF NORFOLK, to-wit:

I, _____, a Notary Public in and for the City of Norfolk, in the Commonwealth of Virginia, whose term of office expires on _____, do hereby certify that Marcus D. Jones, City Manager and R. Breckenridge Daughtrey, City Clerk, respectively, of the City of Norfolk, whose names as such are signed to the foregoing Purchase and Sale Agreement, have acknowledged the same before me in my City and State aforesaid.

Given under my hand this _____ day of _____, 2013.

Notary Public Registration No.

APPROVED AS TO CONTENTS:

Division of Real Estate Date

APPROVED AS TO FORM AND CORRECTNESS:

Charles Stanley Prentace Date
Deputy City Attorney

CERTIFICATION OF FUNDING

I hereby certify that the money required for this Purchase and Sale Agreement is in the City Treasury to the credit of the fund from which it is to be drawn and not appropriated for any other purpose.

Account: _____

Amount: _____

Contract No.: _____

Vendor Code: _____

Director of Finance

Date

ACKNOWLEDGMENT BY TITLE COMPANY

The undersigned, _____, (referred to in this Purchase and Sale Agreement as the "Title Company"), hereby acknowledges that it received this Purchase and Sale Agreement executed by Seller and Purchaser and accepts the obligations of Title Company as set forth herein.

STEWART TITLE GUARANTY COMPANY

By: _____

Title: _____

EXHIBIT "A"
Real Estate Account Number 0945-7900

ALL THAT CERTAIN LOT, piece or parcel of land, with the buildings and improvements thereon, now numbered 1224 Cary Avenue, situate in the City of Norfolk, Virginia, and known, numbered and designated as Lot Two (2) as shown on the plat entitled "Plat Showing Property of Henry Hunsberger and Wm. W. Old, Jr." made by C. F. Petrie, C. E., May 11, 1920, which said plat is duly recorded in the Clerk's Office of the Circuit Court (formerly Norfolk County), Virginia, in Map Book 17, at page 56; the said lot fronting 14.9 feet on Cary Street and extending back between parallel lines 81 feet, more or less, as shown on said plat, to which reference is hereby made for a more particular description.

IT BEING the same property conveyed to Anita E. Urquhart by deed from J. C. Council, Jr. and Alice D. Council dated September 1989 and duly recorded October 11, 1989 in the aforesaid Clerk's Office in Deed Book 2215 page 10.